

# LOUISIANA PUBLIC SERVICE COMMISSION

## GENERAL ORDER

### LOUISIANA PUBLIC SERVICE COMMISSION EX PARTE

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*Docket No. R-26018 In re: Determination As To Whether The Commission Should Issue A General Order Asserting Jurisdiction Over The Certification of Utility Transmission Projects and the Determination of Whether Those Projects Are In The Public Interest.*

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(Decided at the Commission's September 18, 2013 Business and Executive Session.)

#### I. BACKGROUND

This Docket was originally initiated to consider whether the Louisiana Public Service Commission ("LPSC" or "Commission") should exercise its jurisdiction over the certification and/or siting of transmission projects constructed in Louisiana. At the June 22, 2011 Business & Executive Session, the Commission Staff ("Staff") was directed to re-activate this docket. As set forth below, the Staff issued three versions of a proposed General Order and received and considered comments from all parties interested in providing input after each version was filed. As a result of this process, the Staff developed rules that reflect in large part a consensus of views of interested parties, and recommended that the Commission a General Order exercising its jurisdiction and requiring Commission approval for the certification and siting of certain transmission facilities in Louisiana. The exercise of jurisdiction over certification and siting of designated transmission facilities would protect the Commission's jurisdiction and would advance the Commission's ability to achieve the regulatory goal of promoting safe, reliable utility service at the lowest reasonable rates. The proposed General Order was considered at the Commission's September 18, 2013 Business and Executive Session and unanimously adopted.

#### II. JURISDICTION OF THE COMMISSION

Transmission facility certification and siting regulation falls within the jurisdiction of the Commission under the following constitutional and statutory provisions:

Louisiana Constitution Article IV, Section 21, which provides:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and

procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

La. R.S. 45:1163(A)(1) which provides:

The commission shall exercise all necessary power and authority over any street, railway, gas, electric light, heat, power, waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utility.

La. R.S. 45:1164(A) which provides:

The power, authority, and duties of the commission shall affect and include all matters and things connected with, concerning, and growing out of the service to be given or rendered by such public utility, except in the Parish of Orleans.

Pursuant to these provisions, the Commission's authority over electric utility regulation in Louisiana is plenary. Certification and siting authority is included within that plenary authority and is not preempted by federal law. The states have traditionally assumed all jurisdiction to approve or deny permits for the certification and siting of electric transmission facilities. *Piedmont Environmental Council v. FERC*, 558 F.3d 304 (4th Cir. 2009).

### **III. PROCEDURAL BACKGROUND**

This docket was originally opened on October 18, 2001. It was re-activated by a directive of the Commission issued at the June 22, 2011 Business & Executive session. Interventions were filed in October/November 2001 on behalf of Marathon Oil Co., New Orleans Business Energy Council, Dynegy, Inc., AEP/SWEPCO ("SWEPCO"), Dixie Electric Membership Corp., Occidental Chemical Corporation, Cleco Power, LLC, Williams Energy Marketing & Trading Company, Louisiana Energy User's Group ("LEUG"), Michael Thibodeaux and LEAN, Entergy Gulf States, Inc. ("EGSL") and Entergy Louisiana, Inc. ("ELL"), and Louisiana Generation, LLC. Additional interventions were received in September 2011 by Southern Cross Transmission, LLC ("Southern Cross") and the Association of Louisiana Electric Cooperatives, L.L.C. ("ALEC"). In March/April 2012, additional interventions were received on behalf of Calpine Corp., Midwest Independent Transmission Operator, Inc. ("MISO"), ITC Holding Corp. ("ITC"), Duke-American Transmission Company LLC ("DATE"), and American Transmission Company, LLC ("ATC").

On February 17, 2012, a "Notice of Proposed General Order and Request for Comments" was filed into the record of this proceeding by the LPSC Staff. That notice included

a draft "Proposed Electric Transmission Facilities Certification and Siting Rules," and comments were sought from all parties. Comments were filed addressing the proposed General Order by EGSL and ELL, LEUG, ITC, Southern Cross, ATC, and SWEPCO.

On August 8, 2012, a "Notice of Technical Conference" was issued setting a Technical Conference on September 12, 2012 to discuss the proposed General Order, comments filed in response, and the next steps to be taken. That Technical Conference was rescheduled and held on October 2, 2012. On September 28, 2012, ITC filed supplemental comments. At the October 2 Technical Conference, presentations were made by ELL and EGSL, SWEPCO, ITC, ATC and DATE, Southern Cross, LEUG and Calpine, and Cleco. During their presentations, generally each presenting party highlighted its specific agreements and concerns with the proposed General Order and recommended changes. All parties, Staff, and other attendees were given the opportunity to ask questions and make comments to each presenter. A report of the October 2, 2012 Technical Conference was filed into the record of this proceeding on October 10, 2012.

Following the October Technical Conference, a revised proposed General Order was issued by Staff that took into account the comments filed by the parties and the information received at the Technical Conference, and additional comments were sought by March 6, 2013. On February 28, 2012, a request for late intervention was filed by the Lafayette Utility System ("LUS"). On March 6, 2013, comments in response to the February 6, 2013 revised proposed General Order were submitted by ELL and EGSL, Cleco, SWEPCO, LEUG, LUS, and ITC. On May 23, 2013, a "Notice of Third Revised Proposed General Order and Request for Final Comments" was filed seeking final comments by June 14, 2013. Final comments were submitted on June 13/14, 2013 by ITC, Cleco, SWEPCO, EGSL and ELL. The Staff issued its final proposed General Order, which took into consideration all comments received by all parties, on August 16, 2013.

#### **IV. RECENT DEVELOPMENTS SUPPORT THE NEED FOR THE EXERCISE OF COMMISSION JURISDICTION**

While the Commission has the constitutional and statutory authority to regulate the certification and siting of transmission facilities, it has not historically exercised this authority due, in large part, to the fact that most of the high voltage transmission grid in Louisiana has been in place for a number of years. As such, the issue of major transmission

facility additions or expansions historically has not directly confronted the Commission. The Commission and its Staff in recent years have been involved with the Entergy Independent Coordinator of Transmission ("ICT") transmission planning process through its participation with the Entergy Regional State Committee ("E-RSC"), and the Commission also has facilitated a consensual resolution of problems associated with the Acadiana load pocket upgrades. In addition, recent LPSC orders allowing the participation by ELL and EGSL and by Cleco in the MISO Regional Transmission Organization ("RTO"), the pending application of Entergy to transfer its transmission assets to ITC, recent FERC orders and initiatives, and the backstop siting authority provided by the Energy Policy Act of 2005 all provide bases for the Commission to consider actively regulating transmission certification and siting.

On June 28, 2012, this Commission issued its Order No. U-32148 making its public interest determination for EGSL and ELL to transfer functional control of their bulk transmission assets to the MISO, with a requested integration date of no later than December 2013. On July 12, 2013, the Commission issued Order No. U-32631 making a public interest determination allowing Cleco to join MISO as well. Once integration occurs for these entities, MISO will have the authority to direct the transmission upgrades that are to be built by EGSL, ELL, and Cleco in Louisiana. In September, 2012, ELL and EGSL made a filing seeking authority to divest themselves of ownership of all of the in-bulk transmission assets to ITC. If this is approved, it would impact the Commission's ability to exercise authority over transmission rates, planning and construction and electric reliability issues. SWEPCO is also seeking Commission approval to establish a new TRANSCO entity that would construct and own all new bulk transmission facilities. SWEPCO is a member of the Southwest Power Pool ("SPP").

In addition, on July 21, 2011, the Federal Energy Regulatory Commission issued its Order No. 1000 in Docket No. RM10-23-000. That Order requires each public utility transmission provider to participate in regional and interregional transmission planning processes, requires applicable Open Access Transmission Tariffs ("OATT") to provide for the consideration of transmission needs driven by public policy requirements in the local and regional and interregional transmission planning processes, and requires improved coordination between neighboring transmission planning regions for new interregional transmission facilities.

Further, Congress enacted the Energy Policy Act of 2005 and established a process by which the Department of Energy ("DOE") would conduct studies of electric transmission needs and designate as "national interest electric transmission corridors" ("NIETCs"), areas experiencing electric transmission constraints or congestion that adversely affect consumers. The FERC was at the same time given "back-stop" siting authority to issue permits within NIETCs for the construction of electric transmission facilities. In February 2009, the United States Court of Appeals for the Fourth Circuit ruled that the backstop siting authority granted to FERC by the Energy Policy Act of 2005 does not allow FERC to grant a transmission construction permit when a State has exercised its authority to deny siting and certification of NIETC projects within the one-year deadline provided by the 2005 Act. *Piedmont Environmental Council v. FERC*, 558 F.3d 304 (4th Cir. 2009). Unless this Commission determines that it should exercise its jurisdiction over transmission certification/siting, any transmission projects in Louisiana required by MISO, SPP, another RTO, ITC, or the Order 1000 planning process can be constructed without LPSC approval. The revenue requirements associated with some of those potential projects may be set by the FERC and flowed through LPSC retail rates.

## **V. CURRENT OVERSIGHT OF LOUISIANA ELECTRIC UTILITY SITING**

Siting decisions and considerations for electric bulk transmission facilities in Louisiana have been left predominantly in the hands of the electric utilities subject to judicial oversight, which oversight is not exercised unless affected landowners refuse to voluntarily allow the needed expropriation on the terms proposed by the expropriating utility. Louisiana courts have required electric utilities exercising expropriation authority pursuant to La. R.S. 19:2(7), to show that the expropriation serves a public and necessary purpose, and that the route selected is based on sound engineering and economic principles. In determining whether the expropriating authority abused its discretion in selecting a particular route, Louisiana courts also have considered the inconvenience which the selected route may cause the landowner. *See, e.g., Louisiana Power & Light Co. v. Caldwell*, 360 So. 2d 848, 851-52 (La. 1978).

While the applicable statute imposes limitations on the expropriation power of an electric utility, a judicial inquiry into whether the electric utility has, in fact, complied with statutory requirements does not occur unless a landowner challenges the expropriation. As such,

the expropriating electric utility may not be called upon to demonstrate that it complied with the statutory requirements. Moreover, even in situations where a landowner challenges an expropriation by an electric utility, a reviewing court is bound to consider only whether the proposed expropriation satisfies the statutory expropriation requirements. A reviewing court will not and cannot engage in the type of inquiry that the Commission would undertake in a certification and siting analysis, i.e., whether the proposed transmission facility will result in service at the lowest reasonable cost consistent with economic, reliability, and safety considerations.

## **VI. TRANSMISSION SITING IN NEIGHBORING STATES**

The following discussion briefly summarizes the authority and procedures related to certification and siting of electric transmission facilities in Arkansas, Mississippi, and Texas, which may be instructive because the public utility commissions in those states, like the Commission, are Entergy regulators.

### **A. Arkansas**

The Arkansas Public Service Commission ("APSC") requires a Certificate of Public Convenience and Necessity for new construction or operation, or an extension of any equipment or facilities supplying a public service. Arkansas Code 23-3-201. In addition to the Certificate of Public Convenience and Necessity ("CPCN"), a Certificate of Environmental Compatibility, requiring a detailed environmental analysis and review, must be obtained for transmission lines that are 100 kV or higher and 10 miles or longer, and for lines that are 170 kV or higher and 1 mile or longer.

To obtain a CPCN, the applicant must provide the following information:

1. Facts showing that the proposed new construction is or will be required by public convenience and necessity.
2. A description of the proposed location or route of the new construction and a description of the manner in which the same will be constructed.
3. A map or maps to suitable scale shall be furnished showing the location or route of the proposed new construction.
4. Specified data, including an estimate of the cost of the project.
5. The manner in which it is proposed to finance the new construction or extension.

## **B. Mississippi**

The Mississippi Public Service Commission ("MPSC") issues a Certificate of Public Convenience and Necessity ("CPCN") authorizing the construction of electric facilities, and Mississippi courts have previously determined that a CPCN is a prerequisite to the exercise of a utility's right of eminent domain. Certificates are required if the facility is being used for furnishing public utility service, and if it will have a capitalized cost in excess of \$10 million or 10% of jurisdictional plant investment. Under Mississippi law, the MPSC has siting authority for any generation unit or transmission addition regardless of ownership. The siting must be in the public interest. Permitting requirements of other federal, state and local entities must be met as well.

The following items are required:

1. A general description of the facility or purchase proposed including:
  - (a) The approximate location of the facility.
  - (b) The approximate cost of the facility.
  - (c) A brief description of the purpose or justification for the facility.
  - (d) A sketch or engineering drawing.
  - (e) The name, address and telephone number of the utility's employee responsible for the construction or acquisition of the facility and from whom further information may be obtained regarding the facility.
  - (f) A copy of any required approvals from Health or Environmental Quality authorities.

## **C. Texas**

Texas requires a certificate for new transmission lines. State statute requires the Texas Public Utility Commission to consider the adequacy of existing service, the need for additional service, community values, recreational and park areas, historical and aesthetic values, environmental integrity, and probable improvement of service and lowering of consumer costs. PURA Ch. 37, Sec. 37.056.

## **VII. STAFF RECOMMENDATIONS**

The Commission is charged with the responsibility of enforcing a regulatory framework that is "in the public interest, designed to assure the furnishing of adequate service to

all public utility patrons at the lowest reasonable rates consistent with the interest both of the public and of the utilities."<sup>1</sup> Regulation of public utilities is authorized as an exercise of police power, which is the power of the state to regulate, to promote, or to protect the public welfare.<sup>2</sup> Part of the Commission's authority to regulate utilities includes the regulation and control over the expansion, modification, certification and siting of transmission facilities. By asserting some additional regulatory control over the transmission facility certification and siting process, the Commission will be in a better position to maintain Louisiana's electric rates at reasonable levels, to protect Louisiana's sovereignty over its jurisdictional electric utilities, and to ensure reliable electric service.

In addition, by asserting regulatory control over transmission, the Louisiana Commission will be in a position to exercise jurisdiction over the certification, siting and construction process should areas in Louisiana be designated as national interest electric corridors, should transmission be required or recommended by MISO or ITC, or should transmission be recommended due to the FERC Order No. 1000 planning processes. This assertion of authority also will give the Commission the opportunity to consider the level of costs for any new transmission construction that ultimately may be reflected in retail rates. Absent the exercise of this authority, decisions as to the planning and construction of transmission in Louisiana will be made by others. Exercise of this authority is particularly important to ensure that the Commission can influence transmission construction decisions if transmission ownership is transferred from regulated Louisiana utilities.

Staff issued, on August 16, 2013 Notice of Staff Recommendation to Issue General Order which contained its final Proposed General Order and recommendations as set forth above, requesting that the Commission adopt the final Proposed General Order as filed.

## **VIII. CONCLUSION**

This matter was considered at the Commission's September 18, 2103 Business and Executive Session. After discussion, on motion of Commissioner Holloway, seconded by

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<sup>1</sup> *Plaquemine v. Louisiana Public Service Commission*, 282 So. 2d 440, 443 (La. 1973).

<sup>2</sup> *Gulf States Utilities Co. v. Louisiana Public Service Comm'n*, 633 So. 2d 1258 (La. 1994).



Commissioner Angelle and unanimously adopted, the Commission voted to accept Staff's recommendation and adopt the final Proposed General Order as filed on August 16, 2013.

**THEREFORE**, the Commission adopts the following rules *effective immediately*:

**ELECTRIC TRANSMISSION FACILITY  
CERTIFICATION AND SITING RULES**

**I. APPLICABILITY:** No person or entity subject to the jurisdiction or regulatory authority of this Commission shall commence construction of any Transmission Facility located in whole or in part within the State of Louisiana, outside of the City of New Orleans, unless qualifying for exemptions set forth in section 8 below, without first having applied for and received from the Louisiana Public Service Commission ("Commission" or "LPSC") an order certifying that the public convenience and necessity would be served through the completion and siting of that Transmission Facility. The Commission intends to exercise its jurisdiction and authority over any Transmission Facility if the costs of the Transmission Facility, and the costs of any associated retail rate impacts, will be reflected or recovered in the retail or wholesale rates to be assessed to customers of Louisiana electric public utilities or cooperatives. These certification and advanced notification rules shall not apply and shall not be required for transmission facilities of municipalities or political subdivisions of the State of Louisiana that are not subject to the jurisdiction of the LPSC. Further, certification and advance notice requirements in these rules shall not apply to and shall not be required for transmission facilities that are privately constructed, owned and paid for by any industrial or other private entity or customer(s) and such are not subject to the jurisdiction of this Commission. These rules and advance notice requirements shall apply to a Transco.

**II. DEFINITIONS:**

**A. Transmission Facility:** For the purposes of this General Order only, the term "Transmission Facility" shall be defined to include a system of structures, wires, insulators and associated hardware, but not including switching or substations, that carry electric energy over distances and that are located in whole or in part within the State of Louisiana and furnish electric service within the state, that would be constructed and operated at or above a nominal

100 kV, exceeds one mile in length, and the estimated cost to construct exceeds \$20 million.<sup>3</sup> A Transmission Facility shall include the construction of any projects designed to resolve a common transmission-related concern. A single Application process should be utilized to obtain approval for such projects, and the estimated total costs of the projects should be aggregated for the purpose of determining whether the \$20 million threshold is met.

**B. Transco:** An Independent Transmission Company or other entity that owns or controls Transmission Facilities (or that proposes to construct or own new Transmission Facilities) that currently may not be a public utility subject to the Commission's jurisdiction but which has planned, proposed, or seeks to construct a Transmission Facility and demonstrates in its Application to the Commission, in addition to the other requirements of this General Order, that it can construct and thereafter own and operate the proposed Transmission Facility. A Transco, in addition to complying with other requirements of this rule, must consent to the jurisdiction of the Commission in order to file an Application for and obtain a Certificate of Public Convenience and Necessity ("Certificate").

**III. BURDEN OF PROOF:** The Applicant shall bear the burden to prove that the proposed Transmission Facility is in the public interest and therefore should be sited and issued the Certificate.

**IV. SCOPE OF COMMISSION REVIEW AND APPROVAL:** In consideration of any Application required under this Order, the Commission may approve the Application if it finds the proposed Transmission Facility to be in the public interest and the interests of affected ratepayers, enhances reliability of service, and/or provides economic benefits, and/or promotes policy goals. In making that determination the Commission may consider the expected impact of such Transmission Facility on costs, retail rates, service reliability, reduction of congestion, the interstate or intrastate benefits expected to be achieved, and whether the proposed Transmission Facility is consistent with public policy. The Commission may consider whether the generalized siting of the proposed Transmission Facility is appropriate and whether

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<sup>3</sup> The \$20 million threshold should be calculated to include the total cost of the project where a Transmission Facility is being constructed by more than one entity, and not to the individual cost of each entity participating in the project, and the \$20 million threshold also should be calculated to include all of the project costs, including the costs of switching and substations associated with the Transmission Facility.

construction of this Transmission Facility (as opposed to construction of another transmission facility or construction of generation, for example) is a reasonable and cost-effective solution to the problem being addressed in the Application. In addition, the Commission may consider criteria required in or established under federal statutes, FERC Order No. 1000, other FERC Orders, and/or regulations, and potential impacts on other affected utilities and the customers of those utilities.

The Commission's certification and siting review shall be in addition to, and is not intended to eliminate, any other approvals that may be required under local, state and/or federal law. In review of the proposed siting, the Commission will only review and approve a generalized substation-to-substation corridor (or similar general arrangement) for the proposed Transmission Facility, and it will not consider or approve a specific parcel-by-parcel routing. Issues related to expropriation, land use planning, zoning and environmental concerns are not subject to the jurisdiction of the Commission and, as a result, shall not be considered in the certification or siting proceedings. It is the intent of the Commission that the issuance of a Certificate shall create presumptive evidence of the need and "public and necessary purpose" of a Transmission Facility in any expropriation proceeding.

**V. APPLICATION CONTENTS:** An Applicant for a Certificate shall file with the Louisiana Public Service Commission a verified Application seeking Commission approval containing at least the following:

1. The name, business address, and electronic addresses of the Applicant(s), as well as for all participants if the Transmission Facility is comprised of projects of multiple entities;
2. A general description of the proposed Transmission Facility;
3. Supporting testimony and exhibits explaining and demonstrating the justifications for the proposed Transmission Facility and a cost/benefit analysis (if relevant), documenting why the proposed Transmission Facility is a reasonable solution to the problem being addressed. If the Applicant is a member of a FERC-approved RTO or ISO, a cost/benefit analysis conducted by that RTO/ISO, if available, shall be provided along with any other documentation prepared by the RTO/ISO identifying the need for construction of the Facility. This RTO/ISO cost/benefit analysis may be substituted for the cost/benefit analysis otherwise required from the Applicant;
4. A description of the proposed location and siting of the Transmission Facility in the form of a generalized substation-to-substation corridor and not a specific parcel-by-parcel routing;

5. A description of anticipated sources of funding for the proposed Transmission Facility;
6. An itemized estimate of the costs of the proposed Transmission Facility, including land and/or right of way acquisition costs, and carrying costs during construction;
7. An analysis, with supporting data, of the estimated effects on costs to ratepayers attributable to the proposed Transmission Facility, including an estimate of the impact of the cost of the Transmission Facility on rates of all the entity's customers within Louisiana;
8. A single line drawing of the proposed typical structure of the Transmission Facility;
9. An estimated time-line, with milestones, for completion of the Transmission Facility;
10. A description of whether rights of way will have to be acquired for the construction of the Transmission Facility or whether existing rights of way will be utilized.
11. Such other information that the Applicant may consider relevant to support a Public Interest determination. The Commission or Commission Staff upon finding an Application to be insufficient also may request the Applicant to supplement an Application with additional information after the filing of the Applicant's certification and siting request. Applicant must respond promptly to any such request, but in no event more than 10 business days after the request is made. Such request by the Commission or Commission Staff shall not alone act to extend any time guidelines for Commission action set forth herein or limit a party or Intervenor's rights to issue discovery in the proceeding.

**VI. CONSTRUCTION:** Within 120 days after the completion of the in-service date of the Transmission Facility, the Applicant shall file a report with the Commission showing the date of completion of the Transmission Facility authorized by the approval, and the total time to construct the facility. The report shall include a detailed statement of the actual costs to each participant to complete the facility, including the cost of AFUDC, cost of land acquisition/rights of way, and the estimated rate effects.

**VII. NOTICE OF APPLICATION:** Notice of the filing of the Application for a Certificate shall be published in the Commission's Official Bulletin, and published as otherwise may be required by law.

**VIII. EXEMPTIONS:** For good cause shown, at the formal request of an Applicant, the Commission shall have the authority to exempt or suspend the Application of one or more of these rules to a Transmission Facility. In addition, a Certificate and siting approval will not be required for the following:

1. A new switching station, or substation;

2. The repair or reconstruction of an existing transmission facility due to weather or other emergencies;
3. The construction or upgrading of distribution facilities (defined as facilities below 100 kV) within the electric utility's service area;
4. Routine maintenance and other activities associated with existing transmission facilities;
5. Facilities that the Applicant is able to demonstrate to the satisfaction of the Commission are needed primarily or entirely for reliability purposes including facilities to eliminate any NERC criteria violations, *e.g.*, relating to the NERC reliability standard requirements in the TPL 001, 002, 003, and 004 standards, or their successors;
6. New transmission point-of-delivery facilities, including radial lines, loop flow lines, switching stations, substations and any other transmission projects undertaken for the primary purpose of accommodating the needs of a new or expanding industrial load or set of industrial loads located in Louisiana;
7. The replacement, modification, or expansion of existing equipment or facilities with similar equipment or facilities in substantially the same location or the rebuilding, upgrading, modernizing, or reconstruction of equipment on facilities that increase capacity of existing facilities.
8. If the costs of the Transmission Facility, and the cost of any associated System Impacts, will not be reflected or recovered in the retail or wholesale rates to be assessed to customers of Louisiana electric utilities or cooperatives;
9. Any Transmission Facility scheduled to be placed into service within three years of the date of the issuance of this Order, but only if activities to acquire right-of-way acquisition activities have commenced through the extension of an offer to a landowner, at the date of the issuance of this Order or work on the project has begun, and if the project is in the construction plan of the utility prior to the issuance of this Order;
10. Any Transmission Facility in which right-of-way acquisition activities have commenced, through the extension of an offer to a landowner, at the date of the issuance of this Order; and,
11. Expansion or modification of a Transmission Facility previously certified or otherwise approved by the Commission prior to the date of this Order.

**IX. OTHER JURISDICTIONS:** If the proposed Transmission Facility otherwise requires LPSC approval and will be located in more than one state or jurisdiction, the Commission and the Commission Staff are authorized to coordinate with the regulatory bodies of the other affected states and affected regional transmission organizations, power pools or independent coordinators of transmission in order to reduce costs and to work toward a consensual resolution of any interstate or multi-jurisdictional issues related to the proposed project. The Commission shall consider the impact on Louisiana ratepayers of the investment in and construction of the Transmission Facility in other states.

**X. COMMISSION ACTION:** The Commission will use its best efforts to act on an Application filed under this order within 90 days when the Application is uncontested by Staff or Intervenors or if expedited consideration is requested by the Applicant and granted by the Commission Secretary. If the Application for certification of the Transmission Facility is contested, but is deemed critical by the RTO or ISO, the Commission will use its best efforts to rule within 120 days. The Commission will use its best efforts to rule on any contested Application within 180 days.

**XI. PENALTY FOR NON-COMPLIANCE:** If a utility or Transco, subject to the jurisdiction of this Commission violates this Order in a material way, or fails to seek timely Commission authority under this Order when required, the Commission retains full authority to deny rate recovery for any costs associated with that project.

**XII. PROCEDURE:** Applications shall be initially referred to and reviewed by Commission Staff and shall not be assigned to the ALJ Division. Staff and Intervenors shall file a statement within 45 days of the date of the publishing of the notice of the Application identifying whether they will have objections to the Application. If any objection is raised, the matter will be assigned to the ALJ Division for an expedited hearing process that would allow, but not require, Commission consideration without a final ALJ recommendation within the time guidelines set forth herein. If no objection is raised, the Staff shall provide a written recommendation to the Commission and seek Commission action on the Application at the next Commission Business & Executive Session.

**XIII. ADVANCE NOTICE REQUIREMENTS:** Any entity subject to these rules that is planning the construction of Transmission Facilities, regardless of whether a Certificate is required, shall provide annually, by February 1 of each year, notice of those plans as set forth below.

**A.** This notice requirement applies to every project for the construction of new electric transmission facilities<sup>4</sup> ("Project or Projects") planned and/or to be constructed in Louisiana. Projects include all potential construction of transmission lines and facilities from the

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<sup>4</sup> This notice requirement is intended to apply to all transmission projects planned and/or to be constructed in Louisiana, including projects that do not meet the criteria requiring siting and certification authority.

time they are included in the entities' current construction plan (or equivalent). Projects include all planned construction of transmission lines and facilities whether the construction was recommended and/or required by the utility, the North American Electric Reliability Corporation ("NERC"), the Federal Energy Regulatory Commission ("FERC"), the Independent Coordinator of Transmission ("ICT"), any Regional Transmission Organization ("RTO"), or TRANSCO.

**B.** Each entity subject to these rules shall designate an individual to provide the information regarding the Projects outlined in paragraph "D" below to the Commission, the Commissioners, and the Executive Secretary. Each entity shall inform all Commissioners and the Executive Secretary of the identity and all contact information of this individual.

**C.** Each Commissioner shall designate an individual in his office to be the contact person for all information regarding the Projects. All contact information for this contact person shall be provided to the entity's representative described in paragraph "B" above.

**D.** For each Project, at the earliest possible date, each entity subject to these rules shall provide the following information to the Executive Secretary of the Commission and to the Commission designees set forth in paragraph "C" above:

1. The location of the Project;
2. A short description of the scope of the Project;
3. The calendar quarter when it is anticipated the project will be placed into service and, as available, the calendar quarter when contact with landowners for acquisition of rights is expected to begin, and the calendar quarter when work is expected to begin;
4. A brief description of the problem and the supporting the need or basis for the Project, including whether it was ordered to be constructed by an RTO or similar entity, or it is needed to comply with industry or NERC Reliability Reasonable Standards;
5. All analyses performed that demonstrate that the Project is a reasonable solution to the problem being addressed;
6. All analyses performed that demonstrate that the chosen route is generally appropriate and reasonably considers the needs of the respective affected entities and communities;
7. The desired in-service date of the Project;
8. Whether acquisition or potential expropriation of property will be required or whether the Project will be constructed on an existing right of way; and
9. The estimated cost of the Project which may be high level during early stages of the project.

All of the information in paragraph "D" should be updated as conditions or estimates change, but no less frequently than annually until Project completion, and those updates should be provided to the Executive Secretary of the Commission and to the Commissioners' designees set forth in paragraph "C" above.

**XIV. CONFIDENTIALITY:** Nothing in these rules shall require an entity to publicly disclose confidential information. To the extent an entity would like to maintain the confidentiality of information submitted under these rules, it shall file a redacted version of the document and submit to the Commission the confidential version.

**BY ORDER OF THE COMMISSION  
BATON ROUGE, LOUISIANA**

October 10, 2013

/S/ ERIC F. SKRMETTA

DISTRICT I

CHAIRMAN ERIC F. SKRMETTA

/S/ CLYDE C. HOLLOWAY

DISTRICT IV

VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL

DISTRICT V

COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE

DISTRICT III

COMMISSIONER LAMBERT C. BOISSIERE, III

  
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EVE KAHAO GONZALEZ  
SECRETARY

/S/ SCOTT ANGELLE

DISTRICT II

COMMISSIONER SCOTT ANGELLE